

# **INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]**

ISSN: 2584-1513 (Online)

Volume 4 | Issue 1 [2026] | Page 383 – 393

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# DEFAMATION IN DIGITAL ERA: A STUDY OF INDIAN LAW

- Pihu<sup>1</sup>, Pooja Rajbhar<sup>2</sup> & Adrika Singh<sup>3</sup>

## ABSTRACT

The rapid expansion of internet services has become an essential part of modern life. Today, individuals can easily access information on almost any subject, communicate with people across the globe, and express their views and ideas through different social media platforms. Electronic means of communication, such as emails and social networking sites, have grown significantly, making interaction quicker and more convenient.

However, it is often said that every coin has two sides. Similarly, while many people use social media to enhance social interaction and share valuable information, others misuse these platforms to harm someone's reputation. When an individual deliberately attempts to damage another person's reputation and cause mental or social harm, it is referred to as defamation. In India, defamation is defined under Section 356 of the Bharatiya Nyaya Sanhita, 2023, which states that making or publishing any false statement about a person with the intention of injuring their reputation constitutes defamation.

In recent years, the publication of false or offensive messages and content on social media platforms has become increasingly common, which can seriously harm an individual's reputation. Such actions may also amount to cybercrime. This article seeks to examine the legal provisions relating to cyber defamation, explain the concept of defamation, and analyze the laws and challenges associated with it in the context of India's cyberspace.

Keywords: Cyber Defamation, Defamation, Social Media, Internet, Cyber Crime.

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<sup>1</sup> LL.M (2025), Department of Law, Allahabad University

<sup>2</sup> LL.M (2025), Department of Law, DSMNR University

<sup>3</sup> LL.M (2024), Department of Law, Amity University

## **INTRODUCTION**

The rapid growth and development of technology have ushered in a new era of innovation, progress, and communication across the world. The widespread availability of internet services has simplified many activities through the use of various social networking platforms that people rely on in different aspects of life. Whether it involves accessing information from diverse fields or communicating with others, these technological facilities have made tasks more convenient and easily accessible.

However, the misuse of these technological advancements can sometimes create serious problems. As users can easily create, publish, and share information on social networking platforms, the issue of defamation has increasingly become a matter of concern. The rising practice of posting information, images, and comments on social media has also heightened the possibility of cyber defamation.

In simple terms, defamation that occurs through the use of computers or the internet is referred to as online or cyber defamation. The ease with which defamatory material can be created and circulated through digital devices has contributed to the growing incidence of cyber defamation. In some cases, individuals misuse these platforms to seek personal revenge or to damage the reputation of other individuals, organizations, or public authorities. Moreover, cyber defamation is not restricted by time or geographical boundaries, as a person located in one part of the world can quickly harm the reputation of someone in another part within a matter of minutes.

## **MEANING OF TERM “DEFAMATION”**

Every individual has the right to protect his or her reputation. Defamation is considered a tort because it harms a person’s reputation and therefore gives rise to a legal claim. In the case of *Dixon v Holden* (1869), it was stated that a person’s reputation is a form of property and may even be more valuable than other forms of property. According to Percy Henry Winfield, defamation can be described as the publication of a statement that lowers a person in the opinion of reasonable members of society or causes others to avoid or dislike that person. The concept of defamation also extends beyond direct harm to an individual; it may include harm to the reputation of a person’s spouse, children, or dependents if such injury ultimately affects the reputation of that individual.<sup>4</sup>

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<sup>4</sup> <https://www.legalserviceindia.com/legal/article-1278-dimensions-of-cyber-defamation-critical-study.html>

Defamation is recognized as both a civil wrong and a criminal offence. In India, it is treated as a reasonable restriction on the right to freedom of speech and expression guaranteed under Article 19 and is permitted under Article 19(2), which allows the State to impose restrictions in the interest of protecting a person's reputation. In simple terms, defamation refers to making or publishing a statement that presents someone in a false or negative manner and damages their reputation in the eyes of society. When determining whether defamation has occurred, courts generally consider whether a reasonable person of ordinary intelligence would believe that the statement harms the reputation of the person concerned.

With the growth of the internet, the ability to publish opinions and information has become widely available to the public. However, defamatory statements posted on websites or online platforms can cause serious and widespread damage because such information can reach a global audience almost instantly. It is also relatively inexpensive and easy for individuals to publish harmful statements online, which increases the risk and scope of cyber defamation compared to traditional forms of defamation.

Another challenge in cyberspace is the anonymity provided by the internet. Often, it becomes difficult to identify the person who originally posted defamatory material online. The nature of online interaction sometimes creates a sense of distance and false confidence among users, which may encourage them to make inappropriate or harmful comments. Many internet users mistakenly believe that they can say anything online without facing consequences.

Although cyber defamation is a relatively modern concept, the traditional principles of defamation still apply to it. Cyber defamation occurs when defamatory statements or materials about a person are published through computers, websites, social media, or emails with the intention of harming that person's reputation. For example, posting defamatory content on a website or sending emails containing false statements about someone to others can amount to cyber defamation.

In India, a person whose reputation has been harmed by defamation can seek both civil and criminal remedies. Civil liability arises under the law of torts, where the affected person may file a suit for damages or compensation for the harm caused to their reputation. Criminal liability for defamation is provided under the Bharatiya Nyaya Sanhita, 2023, which prescribes punishment for making or publishing statements that damage another person's reputation.

In cases related to cyber defamation, the remedies may also involve provisions of the Information Technology Act, 2000, since defamatory content is often shared through digital platforms such as websites, emails, or social media. Therefore, individuals affected by cyber defamation can seek relief through both criminal provisions under the Bharatiya Nyaya Sanhita and relevant legal measures available under cyber law.

## **MEDIUM OF CYBER DEFAMATION**

Cyber defamation can happen in several ways through the internet. Some of the common methods are explained below:<sup>5</sup>

### 1) Social Networking Sites

Social media platforms are one of the most common sources of cyber defamation. People can easily post messages, share opinions, and comment on different topics on social networking sites such as Facebook, Instagram, X, and LinkedIn. Because users frequently post about events, people, and personal opinions, these platforms can sometimes be misused to make false or harmful statements about others. Many individuals who are not aware of legal consequences may write defamatory comments or posts that damage someone's reputation.

### 2) Email

Email, also known as electronic mail, is another common method through which cyber defamation can occur. Since people regularly check their emails, defamatory content can easily spread through email messages. For example, if a person sends an email containing false allegations about a competitor and the receiver forwards that message to others, the information may quickly reach many people. If the allegations later turn out to be false, the person whose reputation was harmed may take legal action against those responsible for spreading the message.

### 3) Other Websites

Websites also play a role in spreading information on the internet. Many people publish articles, blogs, research papers, or other content on different websites. However, sometimes individuals may post false or harmful statements about others in such content. When these statements damage a person's reputation, it may lead to cyber defamation.

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<sup>5</sup> <https://primelegal.in/2022/12/03/cyber-defamation>

## **ELEMENTS OF DEFAMATION**

Defamation arises when harmful information about a person is published or communicated to others. For an act to be considered defamation, certain essential elements must be present:

- i. Publication of a defamatory statement – A statement that can harm a person’s reputation must be made or published.
- ii. Reference to the Plaintiff – The statement must clearly relate to or identify the person who claims to be defamed.
- iii. Communication to a third person – The statement must be shared with someone other than the person against whom it is made.
- iv. Knowledge of the statement by the Plaintiff – The person concerned should become aware that such a statement has been made about them.
- v. Damage to reputation – The statement must cause harm, or be likely to cause harm, to the reputation of the person in society.

## **PUBLICATION OF DEFAMATORY STATEMENT**

Publication means making information known to others. In defamation law, a defamatory statement must be communicated to someone other than the person about whom it is made. For example, if a person dictates a defamatory letter to a clerk, it is considered publication because a third person has heard the statement. A person’s own opinion about themselves is not considered their reputation in the eyes of society. Therefore, if a defamatory statement is communicated only to the person concerned and not to anyone else, it is generally not treated as publication. For instance, an email containing allegations sent only to the person mentioned in it will not amount to defamation unless it is also shared with another person.

Anyone who helps in creating or spreading a defamatory statement can be held responsible. If one person speaks defamatory words, another writes them down, and a third person approves their publication, all of them may be considered liable. Similarly, the publisher of a newspaper can be held responsible for defamatory content printed in the newspaper, even if they were not aware of it. However, an editor may defend themselves by proving that the defamatory content was published without their knowledge or during their absence, and that they had trusted a capable person to manage the newspaper in good faith.

In the online environment, publication includes the sharing, transmission, or storage of information in electronic form. A major difference between traditional defamation and internet defamation is that the publisher is no longer limited to media organizations. On the internet, any individual from anywhere in the world can publish information.

Online publication can occur through many platforms such as blogs, emails, social networking sites, and online discussion forums. Courts have accepted that posting defamatory statements on these platforms can satisfy the requirement of publication. In internet cases, the plaintiff does not always need to prove that another person actually read the defamatory statement. It is often enough to show that the content was accessible to people within a particular area, which creates a reasonable assumption that others could have seen it.

## **LEGAL PROVISIONS GOVERNING DEFAMATORY LAWS**

Several legal provisions in India deal with the problem of cyber defamation. Laws such as the Bharatiya Nyaya Sanhita, 2023, the Information Technology Act, 2000, and the Bharatiya Sakshya Adhiniyam, 2023 provide legal provisions to address offences related to online defamation. These laws help regulate the misuse of digital platforms and offer legal remedies when a person's reputation is harmed through the internet.

### **BHARATIYA NYAYA SANHITA, 2023**

Although defamation is mainly treated as a civil wrong under the law of torts, certain provisions of criminal law also deal with acts that harm a person's reputation. Under the Bharatiya Nyaya Sanhita, 2023, several sections address offences related to reputation and intimidation.

**Section 356 – Defamation:** This provision states that if a person makes or publishes any statement, sign, or representation with the intention of harming the reputation of another person, it is considered defamation.

**Punishment for Defamation:** A person found guilty of defamation may be punished with simple imprisonment for a term that may extend to two years, or with a fine, or with both.

Section 351 – Criminal Intimidation: This section deals with situations where a person threatens another with harm to their person, property, or reputation in order to cause fear or compel them to act in a certain way.

These provisions can also be applied in situations where defamatory or threatening content is shared through digital platforms, including the internet.

## **INFORMATION TECHNOLOGY ACT, 2000**

The Information Technology Act, 2000 also contains provisions related to the misuse of digital communication, although they do not directly deal with cyber defamation.

Section 66A – Sending offensive messages through communication services<sup>6</sup>

Section 66A earlier provided punishment for sending offensive or insulting messages through computers, mobile phones, or other electronic devices. The provision made it an offence to send messages that were grossly offensive or intended to cause annoyance, insult, injury, or criminal intimidation. A person convicted under this section could face imprisonment for up to three years, along with a fine. However, in the landmark case of *Shreya Singhal v. Union of India*,<sup>7</sup> the Supreme Court of India declared Section 66A unconstitutional. The Court held that the provision violated the right to freedom of speech and expression under Article 19(1)(a) and did not fall within the reasonable restrictions mentioned in Article 19(2).

## **SECTION 67 – PUBLISHING OBSCENE MATERIAL IN ELECTRONIC FORM**

Section 67 of the IT Act deals with the publication or transmission of obscene material in electronic form. It provides punishment for anyone who publishes or shares content online that is obscene, appeals to sexual interests, or has the potential to corrupt or negatively influence others.

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<sup>6</sup> Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; if threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 1[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

<sup>7</sup> (2013)12S.C.C73

Courts have also clarified the scope of this provision in certain cases. In *Sreekumar v. State of Kerala*,<sup>8</sup> the Kerala High Court held that abusive words without any obscene or sexual elements cannot be treated as an offence under Section 67 of the IT Act. Similarly, in *I. Linga Bhaskar v. State*,<sup>9</sup> the Madras High Court observed that an emoji is generally used to express feelings and cannot automatically be considered as a clear or intentional wrongful act by itself.

## **PROBLEM AND ISSUES ARISING OUT OF CYBER DEFAMATION**

Defamation usually requires proof that a person intentionally published a statement with the aim of harming someone's reputation. Such a statement must lower the person's reputation in the eyes of reasonable members of society. However, when defamation occurs on the internet, proving these elements becomes more complex. Issues may arise regarding the place where the statement was published, what exactly counts as publication online, which country's law should apply, and whether a person can be brought under the jurisdiction of a court in another country for defamatory content shared on the internet.<sup>10</sup>

### **Internet defamation differs from traditional forms of defamation in several ways:**

1. Change in the identity of the publisher

In the past, defamatory statements were often published by newspapers, magazines, or other media organizations. On the internet, however, almost anyone from anywhere in the world can publish content, making it easier for individuals to spread defamatory statements.

2. Wider and long-lasting reach

Statements made online can quickly reach millions of people and may remain available for a long time. Even if the original post is deleted, it might still be stored in search engines or shared again on other websites or blogs. In contrast, statements made in newspapers or magazines usually reach a limited audience and are often forgotten after some time.

3. Use in cyberbullying

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<sup>8</sup> *Sreekumar v. State of Kerala*, 2019 SCC Online Ker 1305.

<sup>9</sup> *Linga Bhaskar & Others V. The State, through the Inspector of Police, Thoothukudi South Police Station & anr.*

<sup>10</sup> Gary Chan Kok Yew, "Reputation and Defamatory Meaning on the Internet". *Singapore Academy of Law Journal*, (2015) 27 SACLJ.

Online defamation has also become a tool for cyberbullying, especially among students and young people. Defamatory content may be posted directly by the person responsible, or someone may create a fake online identity in the name of another person and post harmful messages that damage that person's reputation.

#### 4. Difficulty in identifying the offender

One of the biggest challenges in online defamation cases is identifying the person responsible for the content. It can be difficult to find out who is behind a particular website, blog, or online comment. Although Internet Service Providers (ISPs) may help trace the computer used, identifying the actual user can still be difficult, especially if the person used a public computer or registered an email account with false information.

#### 5. Question of credibility of online information

Since a large amount of information is available on the internet and not all of it is reliable, it is sometimes difficult to determine whether readers actually believe defamatory statements posted online. In contrast, statements published in newspapers or other print media are usually considered more credible because the print media is regulated and follows strict publication standards. Because of these differences, it can be difficult to measure the actual damage caused by defamatory comments on the internet.

#### 6. Impact on companies and individuals

Online defamation has become a serious issue for both individuals and businesses. Many companies have faced problems such as internet "hate campaigns," where negative or harmful content about a business is repeatedly spread online. It is often very difficult and costly for affected companies to stop or control such campaigns.

#### 7. Difficulty in taking legal action

Another challenge in online defamation cases is that the person responsible for the defamatory statement may not have sufficient financial resources, making legal action less effective. Additionally, if the person who posted the defamatory content is located in another country, the victim may need to start legal proceedings in a foreign jurisdiction, which can be expensive and complicated due to differences in laws related to defamation and the internet.

## INDIAN APPROACH TO DEEPFAKE TECHNOLOGY

Deepfake technology uses artificial intelligence to create highly realistic but fake videos, images, or audio. While this technology can be used for creative or entertainment purposes, it can also be misused to spread false information, damage a person's reputation, or commit online offences. In India, the increasing circulation of deepfake content on social media has raised serious concerns because such content can easily mislead the public and harm individuals or organizations.

Currently, India does not have a specific law that deals only with deepfake technology. However, existing legal provisions such as the Information Technology Act, 2000 and the Bharatiya Nyaya Sanhita, 2023 are used to handle offences related to manipulated digital content. These laws help authorities take action when deepfakes are used for activities like defamation, impersonation, or spreading harmful material online. The government is also considering stronger regulations and amendments to better control the misuse of such technology in the future.

The Information Technology Act, 2000 has been updated through recent amendments to deal with new challenges arising from modern digital technologies, including artificial intelligence and deepfake content. The IT Act Amendment 2026 focuses on improving online safety and reducing the misuse of digital platforms. A major aim of these changes is to make social media companies and other online intermediaries more accountable for the content shared on their platforms.

According to the new amendments, online platforms must respond more quickly to complaints and remove harmful or misleading material, such as deepfake videos or altered images. Social media companies are also required to follow stricter rules to prevent the spread of false information and to protect users from online harm. These changes aim to strengthen digital regulation, safeguard individuals' rights, and create a safer internet environment.

The new rules also place greater responsibility on technology companies by requiring more transparency in how they manage and control content on their platforms. The main goal is to ensure that harmful or misleading content is identified and removed quickly before it spreads widely and causes serious digital damage.<sup>11</sup>

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<sup>11</sup> <https://share.google/ud0xoJdisvqO0n8HY>

## CONCLUSION

In the modern digital age, technology has become an essential part of everyday life, but it can also be misused in many ways. One of the common cyber offences today is defamation, mainly because information and data can be easily shared through the internet. Although Indian laws prohibit publishing defamatory content online, many people are either unaware of these legal provisions or do not clearly understand the difference between acceptable expression and defamatory statements.

Therefore, there is a strong need to educate people about the responsible use of cyberspace and the importance of following cyber ethics. Public awareness programs can help individuals understand the legal consequences of misusing online platforms. In addition, online platforms and intermediaries that provide space for users to share content should regularly monitor the material posted on their platforms. They should also take necessary action against users who publish defamatory content to prevent such incidents from happening again.

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